

209.101

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AUTHORITY: 41 U.S.C. 421 and 48 CFR chapter 1.

SOURCE: 56 FR 36313, July 31, 1991, unless otherwise noted.

Subpart 209.1—Responsible Prospective Contractors

209.101 Definitions.

“Entity controlled by a foreign government,” “foreign government,” and “proscribed information,” are defined in the provision at 252.209-7002, Disclosure of Ownership or Control by a Foreign Government.

[59 FR 51132, Oct. 7, 1994]

209.103 Policy.

(a)(i) Do not deny award to contractors subject to on-site inspection under the Intermediate-Range Nuclear Forces (INF) Treaty, or similar treaty, due to the actual or potential presence of Soviet inspectors at the contractor's facility unless—

(A) Necessary for reasons of national security;

(B) The decision is based on full information, including comment from the potential contractor or subcontractor on the security issues involved; and

(C) The department or agency acquisition executive reviews the decision and the Under Secretary of Defense

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(Acquisition & Technology) approves the decision.

(ii) Make any decision to deny consideration for award under paragraph (a)(i) of this section as early as possible in the acquisition process. Notify the firm in writing of any decision not to consider the firm for award of a contract or subcontract.

(c) The additional cost of contract administration and audit due to a contractor's performance risk may be considered in evaluating the contractor's price.

[56 FR 36313, July 31, 1991, as amended at 60 FR 29497, June 5, 1995; 61 FR 50452, Sept. 26, 1996]

209.103-70 Contract clause.

Use the clause at 252.209-7000, Acquisition from Subcontractors Subject to On-Site Inspection Under the Intermediate-Range Nuclear Forces (INF) Treaty, in all solicitations and contracts exceeding the simplified acquisition threshold, except solicitations and contracts for commercial items.

[60 FR 61593, Nov. 30, 1995, as amended at 61 FR 50452, Sept. 26, 1996]

209.104 Standards.

209.104-1 General standards.

(e) For cost-reimbursement or incentive type contracts, or contracts which provide for progress payments based on costs or on a percentage or stage of completion, the prospective contractor's accounting system and related internal controls must provide reasonable assurance that—

(i) Applicable laws and regulations are complied with;

(ii) The accounting system and cost data are reliable;

(iii) Risk of misallocations and mischarges are minimized; and

(iv) Contract allocations and charges are consistent with invoice procedures.

(g)(i) *Ownership or control by the government of a terrorist country.* (A) Under 10 U.S.C. 2327(b), a contracting officer shall not award a contract of \$100,000 or more to a firm or to a subsidiary of a firm when a foreign government—

(I) Either directly or indirectly, has a significant interest—

(I) In the firm; or